

Docket: GMA-63

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
ALLENTOWN DIVISION**

Grapha-Holding AG and
Muller-Martini Mailroom Systems, Inc.,

Plaintiffs,

v.

Seidel Enterprises, Inc. and
Randy Seidel,

Defendants.

Case No. _____

COMPLAINT AND JURY DEMAND

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Plaintiffs Grapha-Holding AG (“Grapha-Holding”), and Muller-Martini Mailroom Systems, Inc. (“Muller-Martini”), by their attorneys, Lucas & Mercanti, LLP, as and for their Complaint against defendants, Seidel Enterprises, Inc. (“SEI”) and Randy Seidel (“Seidel”), allege as follows:

JURISDICTION AND VENUE

1. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 United States Code. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1338.

2. This Court has personal jurisdiction over Defendants Seidel and SEI because

Defendants are found in this judicial district, transact business, do business and solicit business in the Commonwealth of Pennsylvania, within this judicial district and elsewhere, and because Defendants are committing and have committed acts of infringement in the Commonwealth of Pennsylvania.

3. Venue is proper under 28 U.S.C. §§ 1400(b), 1391(b) and (c), as the claims arose in this judicial district and Defendants reside, do business in and may be found, along with their agents, in this district, and Defendants have committed acts of infringement herein.

THE PARTIES

4. Plaintiff, Grapha-Holding is a corporation organized and existing under the laws of Switzerland, having an office at Sonnenbergstrasse 13 6052 Hergiswil NW, Switzerland.

5. Plaintiff, Muller-Martini is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business at 4444 Innovation Way, Allentown, Pennsylvania 18109.

6. Upon information and belief, Defendant SEI is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal place of business at 795 Roble Rd., #B, Allentown, Pennsylvania 18109.

7. Upon information and belief, Randy Seidel is an individual who is President of SEI, and resides in this district.

8. Upon information and belief, SEI and Seidel each were, relative to the acts hereinafter alleged, the agent of the other, and acting within the scope, purpose, and authority of that agency, and with the knowledge, permission, and consent, of the other.

9. On information and belief, SEI is, relative to the acts hereinafter alleged, a mere shell, instrumentality, and conduit, through which Seidel carries on his business. Seidel exercises complete control and dominance over SEI, to such an extent that any separateness of

SEI and Seidel does not exist.

10. On information and belief, there has existed such a unity of interest between SEI and Seidel that any individuality and separateness of SEI and Seidel has ceased, and that they are each the alter ego of the other, in the acts hereinafter alleged.

11. On information and belief, any and all acts hereinafter ascribed to either SEI or Seidel were done with the permission, consent, knowledge, and active inducement on the part of the other, which together acted as co-conspirators and/or agents in performance of the acts hereinafter more particularly described.

12. United States Patent No. 5,178,262 (“ ‘262 Patent”) was duly and lawfully issued on January 12, 1993, based upon an application filed by the inventors. A copy of the ‘262 Patent is attached hereto as Exhibit A.

13. Grapha-Holding is the owner by assignment of the ‘262 Patent, and has the right to sue, and recover damages for infringement thereof.

14. Muller-Martini is the exclusive licensee of the ‘262 Patent in the field of inserting systems for newspapers.

CLAIM FOR PATENT INFRINGEMENT

15. Grapha-Holding and Muller-Martini repeat and re-allege each and every allegation contained in paragraphs 1 through 14 above, with the same force and effect as if fully set forth herein.

16. Upon information and belief, Defendants SEI and Seidel have been, and are now infringing, the ‘262 Patent, by manufacturing, offering to sell, selling, and using, gripper arms which infringe the ‘262 Patent, for newspaper inserting systems, and possibly for other systems.

17. Upon information and belief, Defendants SEI and Seidel have also contributed to the infringement of the ‘262 Patent, and/or actually induced others to infringe, the ‘262 Patent, in

this district and elsewhere, in the United States.

18. The Defendants' aforesaid activities have been without authority and/or license from Grapha-Holding and Muller-Martini.

19. Upon information and belief, Defendants SEI and Seidel have been aware of the existence of, but nevertheless have been infringing, the '262 Patent.

20. Defendants SEI and Seidel were notified by letter dated on or about June 24, 2009, that they have been infringing the '262 Patent, but have nonetheless continued to infringe the '262 Patent.

21. Upon information and belief, the infringement of the '262 Patent by Defendants SEI and Seidel, has been willful and deliberate, and in total disregard for Plaintiffs' lawful rights under the '262 Patent, thus rendering this case "exceptional", as that term is set forth in 35 U.S.C. § 285.

22. Upon information and belief, SEI's and Seidel's infringement of the '262 Patent has allowed Defendants to reap profits, and their infringement has caused, and will continue to cause, Plaintiffs great and irreparable harm.

23. Plaintiffs, Grapha-Holding and Muller-Martini, have been damaged, and will continue to be damaged, by SEI's and Seidel's infringement of the '262 Patent.

24. Plaintiffs, Grapha-Holding and Muller-Martini, have no adequate remedy at law without intervention of the Court.

JURY DEMAND

25. Plaintiffs hereby demand trial by jury as to all claims and defenses in this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Grapha-Holding and Muller-Martini, pray for judgment against Defendants SEI and Seidel, as follows:

(1) Preliminarily and permanently enjoining Defendants SEI and Seidel, together with each of its affiliates, subsidiaries, officers, agents, servants, employees, and attorneys, and all persons in active concern or participation with any of them who receive actual notice of the Court's order by personal service or otherwise, from infringing the '262 Patent in any manner;

(2) Requiring Defendants SEI and Seidel to file and serve on Grapha-Holding and Muller-Martini, within 30 days after service of an injunction, a written report under oath setting forth in detail, Defendants SEI and Seidel compliance with the injunction;

(3) For a judicial determination and declaration that Defendants have infringed the '262 Patent;

(4) For a judicial determination and declaration that, because SEI's and Seidel's infringement of the '262 Patent is willful and deliberate, this is an exceptional case under 35 U.S.C. § 285;

(5) For an order requiring SEI and Seidel to account for the sales and profits related to the sale of the gripper arms;

(6) For an award, to be determined at trial or otherwise, of damages adequate to compensate Grapha-Holding and Muller-Martini for Defendants' infringement, and Plaintiffs' costs, but in no event less than a reasonable royalty – plus pre-judgment and post-judgment interest – and for such damages to be trebled, pursuant to 35 U.S.C. §§ 284 and 285;

(7) For an award of Plaintiffs' reasonable attorneys' fees and expenses pursuant to 35 U.S.C. § 285;

(8) For such other and further relief as this Court may deem just and proper.

Respectfully submitted,

Dated: October 29, 2009

s/ R. Michael Carr

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